

DOCKET FILE COPY ORIGINAL

ORIGINAL

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

RECEIVED

JUL 7 1994

In the Matter of )  
 )  
Revision of Part 22 of the Commission's )  
Rules Governing the Public Mobile Services )

CC Docket No. 92-115

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

To: The Commission

RECEIVED

JUL 5 1994

REPLY COMMENTS OF  
**PAGING PARTNERS CORPORATION**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Paging Partners Corporation ("Paging Partners") hereby submits its Reply Comments in connection with the Further Notice of Proposed Rulemaking ("Further Notice" or "FNPRM") in the above captioned proceeding.

Many of the commentors expressed similar concerns to those of Paging Partners in connection with the amendment of pending applications; the application of proposed procedures to Pre-July 26, 1993 applications; and mileage restrictions on applications filed for additional locations on existing frequencies. Paging Partners asserted, as did most commentors, that the Commission's proposed plan would result in even more disruptions than the present procedures. Paging Partners agrees with the Personal Communications Industry Association ("PCIA") who pointed out on page 5 of its comments that "the plan proposed in the Further Notice simply is untenable and will greatly disserve the public interest."

Further, Paging Partners is in agreement with PCIA regarding a proposed second public notice of already filed frequency specific applications. This second public notice basically submits the applicant to "double jeopardy" by making them subject to a second set of petitions to deny. Paging Partners also agrees that the Commission's plan would cause speculative applications.

No. of Copies rec'd  
List ABCDE

*Quinn*

As stated in its Comments, Paging Partners has serious concerns regarding the proposed 1.6 mile restriction in connection with applications for additional locations. Paging Partners agrees with several commentors, including PCIA, Paging Network, Inc. and AirTouch Paging, who suggest that licensing on a market area basis would alleviate future 931 MHz licensing build-out problems. This concept is important for wide-area paging service and is one that the Commission should consider since it would allow flexibility to both the Commission and the carrier and ultimately provide the public with more responsive service. This approach would partially respond to Paging Partners' serious concerns regarding the 1.6 miles restrictions on an existing operator's ability to file applications for additional locations

Paging Partners submits that the plan to consolidate all pending and litigated applications and licenses together in one group for competitive bid or lottery is not tenable and questionable legally. The Commission must face the hard task of reviewing and resolving the existing controversies by using the FCC Rules and policy which existed at the time. Resolution of these issues must be made prior to the implementation of any revised 931 MHz licensing procedures.

Alpha Express, Inc. ("Alpha") and Tri-State Paging Co. ("Tri-State") discussed this issue in their Comments in the context of the outstanding New York lottery proceeding<sup>1</sup>. Although Alpha and Tri-State try to enlist sympathy relative to their positions in connection with the New York Lottery, both were on notice that the basis for the "settlement" had been challenged from the time Paging Partners filed its Petition for Reconsideration in 1992. Paging Partners has presented allegations in connection with the propriety of the behind the scenes deal with other New York lottery participants who sought to circumvent the FCC Rules and Regulations and which deprived Paging Partners of a 931 MHz frequency.

---

<sup>1</sup>Public Mobile Services Lottery No. PMS-31, 5 FCC Rcd. 7430 (Com. Car. Bur. 1990), app. for review, petition for recon. pending.

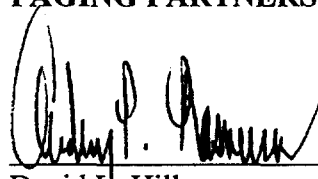
Alpha states that loss of its license would displace customers on its two transmitter operation, which would cause an upheaval!<sup>2</sup> Tri-State has similar pleas to the Commission regarding its paging channel, reaped from the New York lottery "settlement." This "settlement" made all lottery entrants winners despite the fact that the number of applicants exceeded the number of frequencies which were available. Paging Partners asserts that efforts to draw sympathy from loss of ill gotten gains should be ignored. The Commission must address and resolve these issues on the basis of rules and policies available at the time of the controversy even if such resolution results in dislocations for Alpha and Tri-State. Indeed, the public interest would be served by producing consistency and openness with the FCC's dealings with the public.

Paging Partners commends the Commission's acknowledgment of the 931 MHz problems; however, it submits that the Commission should not apply its proposed processing rules retroactively. Existing proceedings must be resolved on the basis of extant rules and policies before moving forward with any new procedures.

Respectfully submitted,

**PAGING PARTNERS CORPORATION**

By:



David L. Hill  
Audrey P. Rasmussen  
Its Attorneys


O'Connor & Hannan  
1919 Pennsylvania Avenue, N.W.  
Suite 800  
Washington, D.C. 20006-3483  
(202) 887-1400

Dated: July 5, 1994

<sup>2</sup>These facilities are all that remains of the paging system which was sold by Alpha's owner in January, 1994.

## **CERTIFICATE OF SERVICE**

I, Gladys L. Nichols, do hereby certify that on this 5th day of July, 1994, the foregoing  
**REPLY COMMENTS OF PAGING PARTNERS CORPORATION** was served to the  
parties on the attached Service List.

  
Gladys L. Nichols

Attachment

SERVICE LIST

AirTouch Communications  
% Pamela Riley  
Director Public Policy  
425 Market St., Rm 3631  
San Francisco, CA 94596

Airtouch Paging  
% Mark A. Stachiw  
Suite 800  
12221 Merit Drive  
Dallas, TX 75251

ALLTEL Service Corporation  
% Carolyn C. Hill  
655 15th Street, NW, Suite 220  
Washington, D.C. 20005

Alpha Express, Inc.  
% Ellen S. Mandell, Esquire  
PEPPER & CORAZZANI, L.L.P.  
200 Montgomery Building  
1776 K. Street, N.W., Suite 200  
Washington, D. C. 20006

Ameritech Mobile Services, Inc.  
% John Gockley, Senior Attorney  
Ameritech Center Building  
2000 West Ameritech Center Drive  
Location 3H82  
Hoffman Estates, IL 60195-5000

Bell Atlantic Mobile Systems, Inc.  
% John T. Scott, III  
Charon J. Harris  
CROWELL & MORING  
1001 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

Cellular Telecommunications Industry Association  
% Andrea D. Williams, Staff Counsel  
1250 Connecticut Avenue, N.W.  
Suite 200  
Washington, D.C. 20036

Committee for Effective Cellular Rules  
% William J. Franklin  
1919 Pennsylvania Avenue, N.W.  
Suite 300  
Washington, D.C. 20006-3404

GTE Service Corporation  
% Gail L. Polivy  
1850 M. Street, N.W.  
Suite 1200  
Washington, D.C. 20036

McCaw Cellular Communications, Inc.  
% Cathleen A. Massey  
Regulatory Counsel  
1150 Connecticut Ave., N.W.  
4th Floor  
Washington, D. C. 20036

Metrocall, Inc.  
% Frederick M. Joyce  
Christine McLaughlin  
JOYCE & JACOBS  
2300 M Street, N.W.  
Suite 130  
Washington, D.C. 20037

New Par  
% Thomas J. Casey  
Richard A. Hindman  
Timothy R. Robinson  
SKADDEN, ARPS, SLATE, MEAGER & FLOM  
1440 New York Avenue, N.W.  
Washington, D. C. 20005

Nextel Communications, Inc.  
% Robert S. Foosaner, Senior Vice President, Government Affairs  
Lawrence R. Krevor, Director, Government Affairs  
Laura L. Holloway, General Attorney  
800 Connecticut Ave., N.W.  
Suite 1001  
Washington, D.C. 20006

NYNEX Corporation  
% Jacqueline E. Holmes Nethersole  
Edward R. Wholl  
Jacqueline E. Holmes Nethersole  
120 Bloomingdale Road  
White Plains, NY 10605

Paging Network, Inc.  
% Judith S. Ledgerer-Roty  
James J. Freeman  
Marnie K. Sarver  
REED SMITH SAW & McCLAY  
1200 18th Street, N.W.  
Washington, D.C. 20036

Southwestern Bell Mobile Systems, Inc.  
c/o Wayne Watts  
Carol L. Tacker  
Bruce E. Beard  
17330 Preston Road, Suite 100A  
Dallas, TX 75252

Personal Communications Industry Association  
% Mark J. Golden  
1019 19th Street, N.W., Suite 1100  
Washington, D.C. 20036

Priority Communications, Inc.  
% Ellen S. Mandell  
PEPPER & CORAZZINA, L.L.P.  
200 Montgomery Building  
1776 K Street, N.W., Suite 200  
Washington, D.C. 20006

ProNet, Inc.  
% Jerome K. Blask  
Gurman, Kurtis, Blask & Freedman  
1400 Sixteenth Street, N.W.  
Suite 500  
Washington, D.C. 20036

Rural Cellular Association  
% Stephen G. Kraskin  
Caressa D. Bennet  
Kraskin & Associates  
2120 L Street, NW Suite 810  
Washington, DC 20037

Skytel Corporation  
% Thomas Gutierrez  
J. Justin McClure  
Lukas, McGowan, Nace & Gutierrez  
1819 H. Street, N.W., Suite 700  
Washington, D.C. 20006

SMR Systems, Inc.  
% William J. Franklin  
WILLIAM J. FRANKLIN, CHARTERED  
1919 Pennsylvania Avenue, N.W.  
Suite 300  
Washington, D.C. 20006-3404

Source One Wireless, Inc.  
% David L. Hill  
Audrey P. Rasmussen  
O'Connor & Hannan  
1919 Pennsylvania Avenue, N.W.  
Suite 800  
Washington, D.C. 20006-3483

Tri-State Radio Co.  
% Richard S. Becker  
James S. Finerfrock  
Paul G. Madison  
Becker & Madison, Chartered  
1915 Eye Street, Northwest  
Eighth Floor  
Washington, D.C. 20006

U S West, Inc.  
% Donald M. Mukai  
Suite 700  
1020 19th Street, N.W.  
Washington, D.C. 20036

Vanguard Cellular Systems, Inc.  
% Raymond G. Bender, Jr.  
J.G. Harrington  
Dow, Lohnes & Albertson  
1255 23rd Street, N.W., Suite 500  
Washington, D.C. 20037



DOCUMENT OFF-LINE

This page has been substituted for one of the following:

- o An oversize page or document (such as a map) which was too large to be scanned into the RIPS system.

- ~~o~~ Microfilm, microform, certain photographs or videotape.

- o Other materials which, for one reason or another, could not be scanned into the RIPS system.

The actual document, page(s) or materials may be reviewed by contacting an Information Technician. Please note the applicable docket or rulemaking number, document type and any other relevant information about the document in order to ensure speedy retrieval by the Information Technician.